IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 951 of 2007(L)

AGAINST THE ORDER IN EP 95/05 IN
OS.81/2003 of SUB COURT, OTTAPPALAM

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PETITIONER:

MANICKAM, W/O.KANNAPPAN,
CHAVADIYOOR P.O., PUTHUR VILLAGE,
MANNARKKAD.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENT:

CANARA BANK, AGALI BRANCH,
PALAKKAD, REPRESENTED BY ITS
BRANCH MANAGER.

BY ADV. SRI.P.GOPINATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO. 951 OF 2007

DATED THIS THE 10th DAY OF JANUARY, 2007

JUDGMENT

This petition is filed under Article 227 of Constitution of India challenging the order of executing Court for sale of attached property. The case of petitioner was that she is agriculturist and she filed Ext.P5 objection to the notice served on her under Rule 66 of Order XXI of Code of Civil Procedure whereunder petitioner claimed the benefit of the Bill proposed to be enacted by the Sate granting benefit to debtors like petitioner and therefore the execution proceedings is to be stayed and learned Sub Judge is to be directed to consider the objection and pass appropriate order.

2. Learned Counsel appearing for petitioner was heard.

3. Arguments of learned Counsel appearing for petitioner was that decree debt obtained by respondent is on an agriculture loan and she is entitled to the benefit of Kerala Farmers Debt Relief Commission Bill 2006 and as that aspect was not considered by learned Sub Judge, learned Sub Judge may be directed to consider the objection filed by petitioner to the execution petition.

4. Kerala Farmers Debt Relief Commission Bill has not so far

been enacted as an Act. If petitioner is entitled to the benefit under the Kerala Farmers Debt Relief Commission Bill , petitioner is at liberty to approach the executing Court claiming the benefit. If such an application is filed, executing Court has to consider the same and pass appropriate order in accordance with law.

Petition disposed accordingly.

M.SASIDHARAN NAMBIAR,JUDGE

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